



U.S. Department of Justice

United States Attorney
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April 6, 2023

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Chen et al. v. Vilsack*,
No. 23 Civ. 1440 (VEC)

Dear Judge Caproni:

This Office represents defendants Tom Vilsack, Secretary of the U.S. Department of Agriculture (“USDA”), and Cindy Long, Administrator of the USDA Food and Nutrition Service, in the above-referenced matter. Presently, an initial conference is scheduled for Friday, April 21, 2023, at 10:00 a.m., and the parties’ deadline to file a joint pre-conference letter is Thursday, April 13, 2023. (ECF No. 16). Respectfully, we write to request that the initial conference be adjourned to Friday, May 19, 2023, Friday, June 2, 2023, or a date thereafter that is convenient for the Court, and that the deadline for filing the joint pre-conference letter correspondingly be extended. This is defendants’ first request for an adjournment and extension of these dates, and plaintiffs’ counsel consents to the request.

Plaintiffs bring a claim under the Administrative Procedure Act (“APA”) alleging that certain policies and regulations implemented by defendants concerning the Supplemental Nutrition Assistance Program are “not in accordance with the law.” (ECF No. 1 at ¶¶ 111-17). Defendants will answer or otherwise respond to the complaint by May 8, 2023. In addition, because plaintiffs’ claim is brought pursuant to the APA, defendants are in the process of compiling an administrative record for filing with the Court. *See* 5 U.S.C. § 706 (APA review is based on “the whole record or those parts of it cited by a party”); *New York v. U.S. Dep’t of Health and Human Services*, 414 F. Supp. 3d 475, 516 (S.D.N.Y. 2019) (“When an agency action is challenged under the APA, summary judgment serves as the mechanism for deciding, as a matter of law, whether the agency action is supported by the administrative record and otherwise consistent with the relevant APA standard of review.” (citation omitted)). Adjournment of the initial conference and

extension of the parties' pre-conference letter deadline will provide defendants with time to respond to the complaint and finalize the administrative record, and will allow the parties to discuss appropriate next steps in the litigation, such as a briefing schedule. As noted above, plaintiffs' counsel consents to the request.

We thank the Court for its consideration of this letter.

Respectfully submitted,

DAMIAN WILLIAMS
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Southern District of New York

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Counsel for Defendants

cc: *Plaintiffs' counsel* (by ECF)

Application GRANTED. The Initial Pre-Trial Conference scheduled for Friday, April 21, 2023 at 10:00 A.M. is hereby adjourned until **Friday, June 2, 2023 at 10:00 A.M.** The parties' joint letter and case management plan is due on **Thursday, May 25, 2023.**

SO ORDERED.

 04/06/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE